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**OFFICE OF PETITIONS**

INTELLECTUAL PROPERTY LAW OFFICE  
1901 S. BASCOM AVENUE, SUITE 660  
CAMPBELL, CA 95008

In re Application of :  
Kim : DECISION ON APPLICATION FOR  
Application No.: 09/849,885 : PATENT TERM ADJUSTMENT  
Filed: May 2, 2001 :  
Atty. Dkt. No.: 2100653-991350 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)" timely filed March 31, 2005.

This request is being treated as an application for patent term adjustment under 37 C.F.R. § 1.705(b).

The application for patent term adjustment ("PTA") under 37 C.F.R. § 1.705(b) is hereby **GRANTED**.

The PAIR screen will be updated to reflect that the Patent Term Adjustment determination at the time of mailing of the Notice of Allowance and Issue Fee Due reflects an adjustment of 560 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicant argues that the 172 days of patent term adjustment indicated in the Determination of Patent Term Adjustment mailed February 11, 2005 is in error and assert that an adjustment of 560 days is appropriate.

A review of the application history reveals that an adjustment under 37 CFR 1.702(a)(1) of 506 days can be attributed to the Office. In accordance with 37 CFR 1.703(a)(1), the adjustment began July 3, 2002, the day after the date that is 14 months after the date on which the application was filed, and ended November 20, 2003, the date the non-final Office action was mailed.

The Office, however, errantly entered January 19, 2005 as the date a response to the non-final Office action was filed. The non-final Office action was mailed November 20, 2003 and a proper response was in fact submitted on May 20, 2004 along with

a petition for a three month extension of time, as indicated on the copy of the Auto-Reply Facsimile Transmission contained in the official application file.

Thus, the adjustment of 506 days is reduced 90 days in accordance with 37 C.F.R. § 1.704(b). The reduction began February 21, 2004, the day after the date that is three months from the date the non-final Office action was mailed, and ended May 20, 2004, the date a response to the non-final Office was filed.

An additional adjustment under 37 CFR 1.702(a)(2) of 144 days can be attributed to the Office. In accordance with 37 CFR 1.703(a)(2), the adjustment began September 21, 2004, the day after the date that is three months after the date that the response to the non-final Office action was filed, and ended February 11, 2005, the date the Notice of Allowance was mailed.

In view thereof, at the time of Notice of Allowance, applicant was entitled to an adjustment 560 days<sup>1</sup>.

The Office acknowledges receipt of the required application fee of \$200.00.

The application file is being forwarded to the Publications Division for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

*Karin Ferriter*  
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Karin Ferriter  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of Deputy Commissioner  
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

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<sup>1</sup> The total adjustment of 650 days being reduced a total of 90 days resulting in an adjustment of 560 days.